

Appointment

From: Colon, Toni [Colon.Toni@epa.gov]
Sent: 2/11/2016 5:57:27 PM
To: Colon, Toni [Colon.Toni@epa.gov]; Blumenfeld, Jared [BLUMENFELD.JARED@EPA.GOV]; Niebling, William [Niebling.William@epa.gov]; McKaughan, Colleen [McKaughan.Colleen@epa.gov]; Lee, Anita [Lee.Anita@epa.gov]; Lyons, Ann [Lyons.Ann@epa.gov]; Machol, Ben [Machol.Ben@epa.gov]; Zimpfer, Amy [Zimpfer.Amy@epa.gov]; Childers, Pat [Childers.Pat@epa.gov]; Green, Gregory [Green.Gregory@epa.gov]; Culligan, Kevin [Culligan.Kevin@epa.gov]; Mckelvey, Laura [Mckelvey.Laura@epa.gov]; Wilson, Erika [Wilson.Erika@epa.gov]; Steiner, Elyse [Steiner.Elyse@epa.gov]; Jones, Toni [Jones.Toni@epa.gov]; Ndoh, Tina [Ndoh.Tina@epa.gov]; Swanson, Nicholas [Swanson.Nicholas@epa.gov]; Vetter, Rick [Vetter.Rick@epa.gov]; Schramm, Daniel [Schramm.Daniel@epa.gov]; Shatas, Angie [Shatas.Angie@epa.gov]; Montanez, Jessica [Montanez.Jessica@epa.gov]; Riha, Kristin [Riha.Kristin@epa.gov]
CC: DeYoung, Robyn [DeYoung.Robyn@epa.gov]; Clouse, Matt [Clouse.Matt@epa.gov]
Subject: Added Updated TPs: Gila River Consultation on the Clean Power Plan and Proposed Federal Plan
Attachments: GRIC FIP CPP Comments 1-21-16 (FINAL).pdf; Updated_2016_0211 Talking Points GRIC consultation_Draft 7 (00000003).docx
Location: Video Conference; For Audio dial: 1-866-299-3188; Code: 415-972-7418#
Start: 2/11/2016 9:00:00 PM
End: 2/11/2016 11:00:00 PM
Show Time As: Busy

EPA VTC Information *Make sure video system is on....EPA VTC support will link each system. **For**
audio, please dial: [REDACTED]
Please verify that these locations are correct for each office. If not, notify Toni Colon asap.

Hdqtrs: DCRoomARN5415PolyRCTB/DC-ARN-OAR
Region 9: R9SF-VTCRoom-19333-10-Big Pine
RTP: Room: C421 OAQPS CORE IP 134.67.204.20 919-541-2673
Gila River: Tribe's video system will be connected through EPA VTC support

For IT Support: 1-919-541-7800
Conference ID: 478921

Anticipated Participants:

In Sacaton	In DC	In RTP	In SF
Governor Stephen Roe Lewis	William Niebling	Greg Green	Jared Blumenfeld
Lt. Governor Monica Antone	Kevin Culligan	Laura McKelvey	Elizabeth Adams
Council members TBD	Pat Childers	Toni Jones	Amy Zimpfer
Council members TBD	Erika Wilson	Tina Ndoh	Ben Machol
Council members TBD	Elyse Steiner	Toni Colon	Anita Lee
Council members TBD	Rick Vetter		Ann Lyons
Linus Everling, GRIC	Dan Schramm		
Ian Shavitz, Akin Gump			
Colleen McKaughan, Region 9			

Gila River Comment Letter



GRIC FIP CPP
Comments 1-21-...

Added 2.11.16 (Internal Only) Updated Talking Points - GRIC Consultation

The revised talking points reflects the 2 hours available for today's meeting.

Jared will do the opening, as well as the HQ talking points on the stay, but HQ will do the responses to GRIC's questions.



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Talking Points G...

Questions Submitted by Akin Gump

GILA RIVER INDIAN COMMUNITY / EPA CONSULTATION IMPACTS OF CLEAN POWER PLAN AND PROPOSED FEDERAL IMPLEMENTATION PLAN ON NGS

February 11, 2016

RELEVANT FACTS

Under EPA's Clean Power Plan Proposed Rule regarding Tribal EGUs, emission limit targets on Navajo Nation lands would have been met through compliance with other regulations (i.e., BART) and were not expected to have required additional costs at NGS. (EPA confirmed the above at the January 2015 consultation with the Community.) EPA's August 2015 Clean Power Plan Final Rule, however, further reduced the emissions target for Navajo Nation lands below the target included in the proposed rule. EPA's Federal Implementation Plan Proposed Rule proposes to find that it is "necessary or appropriate" to regulate affected EGUs in Indian Country because absent a federal plan emissions would go unregulated and tribal EGUs would not have the benefit of entering into a trading program.

QUESTIONS / ISSUES FOR EPA TO ADDRESS AT CONSULTATION

1. Why did EPA reduce the emissions target for Navajo Nation lands between the Clean Power Plan proposed rule and final rule, when the target in the proposed rule would have achieved CO₂ reductions in excess of 32% from 2005 levels (which exceeds EPA's goal for program reductions)? Doesn't this put an undue and unfair burden on the EGUs on Navajo Nation lands?
2. How can EPA reasonably require the owners of NGS, and by extension, the Community, to incur costs above and beyond those already associated with compliance with the BART Rule?
3. Has EPA calculated the additional compliance costs at NGS if the federal plan is implemented on Navajo Nation lands? If so, what was EPA's cost estimate and did this estimate consider increased cost of CAP water? If not, shouldn't the unique aspects of NGS (both its tribal implications and existing compliance obligations under BART) and EPA's trust obligations require such an analysis?
4. The Joint SRP / APS comments on the Implementation Plan (at p. 6) state: "additional restrictions and/or other future operating scenarios, could prompt the owners to decide to close additional units – an

outcome with far-reaching economic consequences for the Navajo Nation.” This scenario would have similar consequences for the Community. What is EPA’s position on this?

5. The Community strongly disagrees with EPA’s proposed finding that it is “necessary or appropriate” to regulate NGS with a federal plan. It is not “necessary” because federally-enforceable measures are in place to reduce carbon emissions from the EGUs located on Navajo Nation lands. It is not appropriate in light of the unique circumstances surrounding NGS. Please explain how EPA could make a “necessary and appropriate” finding in these circumstances.
6. EPA proposes to treat all EGUs in Indian Country the same. Isn’t it appropriate to treat NGS (or the EGUs on Navajo Nation Lands) differently because NGS is directly tied to trust assets, is responsible for providing power to deliver CAP water under federal water claims settlements, and is already committed to emissions reductions that will be below the program goal?
7. Both the Community and SRP have requested that EPA use its discretion provided by the Clean Air Act section 301 Tribal Authority Rule (TAR) to either not apply the federal plan to Navajo Nation lands or apply an alternative plan that would not require additional costs at NGS. What is EPA’s position on this?
8. The Community understands that SRP and the Navajo Nation have requested that even in the absence of a plan, EPA allow the Navajo Nation to establish emission rate credits (“ERCs”) generated by renewable energy projects on Navajo lands and sell such ERCs to EGUs that are subject to the CPP’s carbon emission performance standards. What is EPA’s position on this? Would it result in additional costs at NGS? Would it serve as a precedent to allow the Community to take advantage of ERCs generated by renewable energy projects developed on Community lands (as contemplated by the TWG Agreement)?
9. If EPA proceeds with a plan that covers both EGUs on Navajo Nation lands, will there be safeguards in place to ensure that NGS does not incur additional costs if Four Corners fails to fulfil its obligations under the plan? If not, could EPA include such safeguards?
10. If EPA does impose the Federal Implementation Plan on Navajo Nation Lands, as proposed in the Proposed Rule: How and when does EPA believe this will impact NGS? What would be the next steps at NGS? Would the Community have any input on what happens at NGS? What might be the sources of additional costs? When would such additional costs be incurred?